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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed April 7, 2004. In the Action, the Examiner notes that claims 1-8 are pending, of which claims 1-8 stand rejected.

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, the Applicants believe that all of the claims are now in allowable form.

Rejections Under 35 U.S.C. §103

A. Claims 1 and 5-8

The Office action has rejected claims 1 and 5-8 under 35 U.S.C. §103 as being unpatentable over IEEE Publication, "The Use of Multicast Delivery to Provide a Scalable and Interactive Video-on-Demand Service" by Almeroth et al. (hereinafter "Almeroth"). The Applicants respectfully traverse that rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). The Applicants submit Almeroth does not teach or suggest the applicants' invention as a whole.

Almeroth discloses a multicast delivery system that provides requested specific video (and audio) content in near on-demand fashion. A subscriber contacts a network requesting specific content. The network then assigns the subscriber a time slot in which it will receive the requested specific content. Multiple subscribers can be added to that assigned time slot. Other subscribers are assigned other time slots to receive the requested specific content. The requested specific content is then obtained from a server and sent to all of the subscribers (multicast) of each time slot at the start of that time slot. Based on various interactions between a subscriber and the network, such as pause or fast forward, a given subscriber can be shifted into another time slot.

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In contrast, the Applicants invention recited in independent claims 1 and 5 relate to sending messages from a transport stream generator to a terminal. For convenience, those claims are:

1. A digital message from a transport stream generator to a terminal, the digital message comprising:

a list of demand-cast streams that are available in a transport stream being transmitted from the transport stream generator each of said demand cast streams comprising imagery associated with a respective program guide page; and

a different demand-cast stream added to said list in response to a request by said terminal, said different demand-cast stream being accessible from said list as long as at least one other terminal is associated with said different demand-cast stream.

5. A method for communicating from a transport stream generator to a terminal, the method comprising:

sending to the terminal a list of demand-cast streams that are available in a transport stream being transmitted from the transport stream generator, each of said demand cast streams comprising imagery associated with a respective program guide page, wherein said list comprises a different demand-cast stream requested by the terminal said different demand-cast stream being accessible from said list as long as one other terminal is associated with said different demand-cast stream.

In claims 1 and 5 the messages are *lists* of the available demand-cast streams in a transport stream. Those demand-cast streams comprise imagery associated with program guide pages. Thus, the invention recited in claims 1 and 5 relate to sending messages that inform a terminal what program guides are available in a transport stream. Furthermore, in those claims a demand-cast stream is added to the list in response to a request by a terminal.

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With all respect to the Examiner, Almeroth has nothing to do with sending messages to a terminal. Almeroth teaches adding transmissions to a transport stream so that it can be accessed by subscribers who asked for a specific program. Consequently, claims 1-5 are allowable. Therefore, the Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 1-5.

Regarding claims 6 and 7, those claims have to do with communicating between a session manager and a terminal (claim 6) and between a session manager and a transport stream generator (claim 7). Claim 6 relates to sending an acquisition message when a terminal acquires a demand-cast stream, sending a release message when the terminal releases a demand-cast stream, determining whether there are other terminals associated with a data stream, and sending a request message when the terminal needs to acquire an unavailable demand-cast stream. Regarding claim 6, Almeroth does not disclose sending acquisition messages when a terminal acquires a demand-cast stream. Almeroth continues to send requested content even if a subscriber does not access or otherwise acquire content associated with a demand-cast stream. Furthermore, once a subscriber requests content, that content is never released, thus Almeroth does not suggest release messages. The requested content plays until it is done. Consequently, claim 6 is allowable. Therefore, the Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claim 6.

Claim 7 relates to sending a transport stream generator a stream released message when no terminals are acquiring a demand-cast stream, and sending a stream requested message when a terminal requests a demand-cast stream. The stream requested message is for acquiring the demand-cast stream, for associating the terminal (and other terminals) with the demand-cast stream. Almeroth does not disclose or suggest stream released messages. Consequently, claim 7 is allowable. Furthermore, claim 8, which depends from claim 7 and which recites additional limitations is also allowable. Therefore, the Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 7 and 8.

B. Claims 2-4

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The Examiner rejected claims 2-4 under 35 U.S.C. §103(a) as being unpatentable over Almeroth in view of U.S. Patent No. 6,314,569 to Chernock et al. (hereinafter "Chernock"). The Applicants respectfully traverse the rejection.

Claims 2-4 are dependent directly or indirectly from independent claim 1. For at least the reasons as set forth above with respect to independent claim 1, Applicants submit that dependent claims 2-4 are not rendered obvious by Almeroth.

Applicants also submit that Chernock does nothing to address the deficiencies of Almeroth. Chernock discloses a method of displaying multimedia content and personalized audio, video, and graphic content. Chernock further discloses automatic object recognition and insertion of personalized information into "holes" found by that recognition.

Applicant's claim 1 relates to sending messages comprised of lists of the available demand-cast streams in a transport stream. Those demand-cast streams comprise imagery associated with program guide pages. Furthermore, a demand-cast stream is added to the list in response to a request by a terminal. Nothing similar is found in or suggested by Chernock.

As such, Applicants submit that claim 1 remains allowable over Chernock. Furthermore, since claims 2-4 depend from allowable claim 1 and recite additional limitation, those claims are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the rejection of claims 2-4 be withdrawn.

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CONCLUSION

Thus, the Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone John M. Kelly or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

6/30/04

E J Wall

Eamon J. Wall, Registration No. 39,414
MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808
Attorney for Applicant(s)

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